

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653(KRH)
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.
CIRCUIT CITY STORES, .
INC., . 701 East Broad Street
.
Richmond, VA 23219
.
Debtors. .
.
June 16, 2010
2:02 p.m.
.

TRANSCRIPT OF HEARING
BEFORE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: McGuire Woods, LLP
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1 COURTROOM DEPUTY: Court is now in session. Please
2 be seated and come to order.

3 COURT CLERK: In the matter of Circuit City Stores,
4 Incorporated, hearing on Items 1 through 4 as set out on
5 today's docket.

6 MR. FOLEY: Good afternoon, Your Honor. Doug Foley
7 with McGuire Woods on behalf of Circuit City. With me in court
8 today is Katie Bradshaw who's the vice president and controller
9 of the company. I also believe on the phone is our respective
10 co-counsel, Mr. Galardi, as well as Mr. Tavenner's respective
11 co-counsel, Rob Feinstein and Jeff Pomerantz. We're obviously
12 available to answer any of the Court's questions with respect
13 to the matters that are on for status today.

14 We first want to thank the Court for obviously
15 setting the hearing today. As Your Honor is aware from last
16 week, there are some issues that happened with respect to the
17 joint plan and the filing of the separate plan. The hearing
18 today has certainly had the effect of all of the professionals
19 -- and I can attest to this, working feverishly over the last
20 four days to try to put the proverbial Humpty Dumpty back
21 together again.

22 The parties have been exchanging documents and, in
23 fact, are -- continue to do so. We've narrowed the issues to a
24 handful of still very important issues. We're certainly not in
25 complete agreement on all the issues yet, but we are hopeful

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1 that with another week and being able to have these matters set
2 for hearing, including the mediation motion, as well as the
3 professional retention motions, on for the omnibus hearing on
4 the 24th that we'd be able to report to the Court at that time
5 what our conclusion is and our efforts to voluntarily and
6 consensually resolve these matters without the need for third
7 party mediation or tell the Court that we're prepared to go
8 forward with that motion.

9 Just to give the Court a broad view of the issues
10 that are -- that remain, there are certain issues relating to
11 certain debtors and exculpation provisions with respect to
12 those debtors, as well as the construct and organization of the
13 oversight committee that will oversee the liquidating trust
14 post-confirmation, as well as certain structural issues with
15 respect to some of the Canadian entities that remain open.
16 If the Court has any specific questions or if any of the
17 co-counsel that are on the phone would care to address the
18 Court, then I'll defer to the Court on that.

19 THE COURT: Well, the question that I have is why
20 shouldn't I order the mediation right now?

21 MR. FOLEY: Your -- if Your Honor is prepared to do
22 that, we'll obviously live with that and proceed that way, but
23 we think that we might be able to resolve the issues without
24 the need to do that by the 24th.

25 THE COURT: Which is what you said last time and said

1 that the 16th would be enough. And I asked last time why the
2 16th and there was an expression of urgency among the various
3 parties that they wanted to have this date, so the Court set
4 this time aside so that we could do that. And what I see is
5 that, you know, we haven't really made much progress from the
6 last time we were here.

7 MR. POMERANTZ: Your Honor --

8 MR. GALARDI: Your Honor --

9 MR. POMERANTZ: -- Jeff Pomerantz, if I may add we
10 agree with what Mr. Foley has said. And while it may appear to
11 the Court that we're here asking for a continuance because not
12 much has progressed, I can tell you that we have reached
13 agreement on certain issues. We are moving forward and as Your
14 Honor recalls, the mediation motion was filed by the debtor at
15 a time when it did not look like the committee and the debtor
16 could reach an agreement on its own. I think the filing of the
17 mediation motion and each of the client's and professional's
18 response thereto, has resulted in an atmosphere where we are
19 hopeful that a deal can be reached and that we still believe
20 that trying to reach a deal among ourselves without third party
21 mediation is the best course, is the quickest course, is the
22 cheapest course and the way to get this plan confirmed as
23 quickly as possible.

24 Now, it may be that we come back next week and we
25 tell Your Honor that despite our best efforts we were

1 unsuccessful and we need mediation. But, at least from the
2 committee's prospective, and I think it's shared by the debtor,
3 that we would suggest that one additional continuance over the
4 next week to give the parties a last attempt understanding that
5 it will be the last attempt because I think both sides are
6 getting down to the point where we'll either settle or we will
7 need mediation. So, we would request another eight days and
8 believe that we have made progress and that hopefully we can
9 get there without the additional time and cost of mediation.

10 MR. GALARDI: Your Honor, it's Gregg Galardi. Let me
11 add to what Mr. Pomerantz and Mr. Foley have said and why
12 mediation actually could be a step backwards at this point,
13 although we've made the motion. As we promised Your Honor and
14 suggested originally, we would work in good faith to do that,
15 to resolve these issues. Part of the issues are, you know,
16 revisions to a plan, a liquidating trust document, a
17 confirmation order and bylaws. And there are lawyers that need
18 to review those and look at those.

19 We think we've narrowed issues. But, if we were to
20 have mediation now -- and I think the committee can respond if
21 this is true, but I think what we have talked about is, since
22 like any settlement you've come a long way to get very close,
23 if we actually had mediation, we may open Pandora's box to a
24 whole host of issues. It's not just one or two narrow issues
25 that would be mediated. It would be how we got here and, you

1 know, all so those issues.

2 So, it would be our strong view that delaying it
3 eight days to see if we can narrow those final issues to get to
4 a settlement as opposed to mediation is better because if we go
5 to mediation (1), it will be a delay and I think no one wants a
6 delay (2), it may open up old wounds or issues that we
7 hopefully are putting behind us as we get to an agreement. So,
8 we, too, support just putting off our motion for those seven
9 days.

10 But, again, if Your Honor wanted to order mediation,
11 we understand that, but we actually think it could actually
12 delay and open up issues that we hopefully are resolving as
13 part of a whole package deal.

14 MR. POMERANTZ: And -- this is Jeff Pomerantz. I
15 would agree with what Mr. Galardi said. We are at a very
16 sensitive part of the negotiations. We have come a long way.
17 There are issues still to resolve, but I do agree that if we
18 would go to mediation, I think both sides would review where
19 they've been, and would start at a different place and it would
20 be counter productive at this point. It may be necessary if we
21 can't bridge our differences by next week, but at this point,
22 we think the progress is moving sufficiently forward to warrant
23 another eight days.

24 And I could assure Your Honor that if the committee
25 didn't believe that the progress -- that progress was being

1 made, as you know we filed our plan because we were unhappy
2 with the status quo and wanted to move the process. But,
3 having said that given the events over the last two, three
4 weeks, we think that the current circumstances merit an
5 additional eight days.

6 THE COURT: All right. Thank you, Mr. Pomerantz.
7 Thank you, Mr. Galardi. Does any other party wish to be heard?

8 (No audible response)

9 THE COURT: All right. The -- with some reluctance,
10 the Court is going to go ahead and exceed to the request of the
11 debtors and the committee to grant the additional eight days to
12 the hearing that's presently scheduled for the 24th. I had
13 been fully prepared to order the mediation today, but I'm going
14 to give that eight days. I'm very concerned with the slippage
15 of time and what's going on and -- but, I take at face value
16 the progress that you report that you're making.

17 And, so I, obviously, respect counsel's views on that
18 and accept that. So, with that, the Court will continue the --
19 these matters over to the 24th. If we don't have things
20 resolved by then, it's very, very likely that I will order the
21 mediation at that point, but we'll take that up on that day.

22 MR. FOLEY: We appreciate that, Your Honor. We
23 understand fully where the Court is coming from on that.

24 THE COURT: All right. Is there any other business
25 we need to take up today?

1 MR. FOLEY: We do not.

2 THE COURT: All right. Then all of these matters
3 will be adjourned to the 24th at ten o'clock and I will see you
4 back them.

5 MR. FOLEY: Thank you, Your Honor.

6 THE COURT: Good luck.

7 MR. POMERANTZ: Thank Your Honor.

8 MR. GALARDI: Thank you, Your Honor.

9 COURTROOM DEPUTY: All rise. Court is now adjourned.

10 * * * * *

11 C E R T I F I C A T I O N

12 I, AMY L. RENTNER, court approved transcriber,
13 certify that the foregoing is a correct transcript from the
14 official electronic sound recording of the proceedings in the
15 above-entitled matter, and to the best of my ability.

16

17 /s/ Amy L. Rentner

18 AMY L. RENTNER

19 J&J COURT TRANSCRIBERS, INC. DATE: June 28, 2010

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